

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2993 of 1991

with

SPECIAL CIVIL APPLICATION No 6439 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? Yes
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

PAGI UDAJI BAPUJI

Versus

STATE OF GUJARAT

Appearance:

MR NR SHAHANI for petitioners in both petitions.

None present for respondents in both petitions.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 3/12/97

C.A.V. JUDGEMENT

As both these matters proceed on the same facts and grounds, they are heard together and are being disposed

of by this common judgment.

It is unfortunate that the respondents have not filed any reply to these special civil applications. The worst part is that nobody is present on behalf of the respondents even to make oral submissions.

Perused the special civil applications and heard the learned counsel for the petitioners.

The grievance of the petitioners in these special civil applications is that they are working on full time basis at Government Homeopathic Hospital but they are being paid only a nominal amount of Rs.75/- per month. In one of the petitions, claim is made that his initial appointment was on full time basis. In the hospital, that is, Government Homeopathic Hospital where the petitioners are posted, only other employee is the Medical Officer, who is appointed as a full time employee. Therefore, prima facie, I find sufficient merits in the contention of the learned counsel for the petitioners that when there are only two employees it is very difficult to believe that one is posted on full time basis and another is on part time basis. However, as the respondents have not filed reply and nobody is present on behalf of the respondents to make oral submissions, I consider it to be not fit and proper to give a final verdict in the matter.

I am constrained to observe that in such petty matters low paid employees are coming before this Court. The litigation before this Court is not a fun but it heavily costs and normally it is beyond the financial capacity of an employee who has been paid only Rs.75/- per month. But for his rights, with great difficulties, he has to come before this Court.

Government of Gujarat has constituted a Service Tribunal for adjudication of the grievances of its employees in service matters but I have been informed that this Tribunal has a very limited jurisdiction. The matter of the nature which has been raised in this special civil application is not within the purview of the said Tribunal. I fail to see as to what for this Tribunal has been constituted if all the service matters are not coming within its jurisdiction and that is the reason that this Court is heavily burdened with litigation of the nature where the employee has to come up before this Court with the grievance that he is not allowed to cross Efficiency Bar, his seniority has been incorrectly fixed, he has been incorrectly superseded or that he was not

given selection grade or that the Adverse remarks given to him in his service record is without any justification, etc. These are service matters where they have no right of appeal. Then what for such Tribunal is constituted. The Tribunal should have been constituted to see that the employees get expeditious adjudication of their grievance in service matters but only a few matters would be coming within the jurisdiction of the Tribunal and rest are being raised before this Court to be decided and that is the reason that mounting arrears of matters are here in this Court. Alternative forum in the service matters is to be provided so that it may serve two fold purposes; firstly, the employees may get cheaper redressal forum available for adjudication of their grievance and secondly, in case ultimately the matter is not decided in their favour, they can come before this Court and there will be a considered and reasoned order before this Court and in that case this Court will be in a better position to decide the case even where no reply is given by the State Government and its officers in this Court. A judicial notice of this fact can be taken that in majority of the cases in which the State Government is a party replies are not being filed and same are to be decided by this Court without replies. These special civil applications have been filed in the year 1991. Though more than six years have been passed the respondents have not cared to file reply to these special civil applications and as such this Court is not in a position to know what was the reason in giving the petitioners only salary of Rs.75/per month. In such matters there must be first a redressal forum available to such class of persons by way of Tribunal or where there is no Tribunal some other redressal forum at Gandhinagar.

Be that as it may. Grievances of the petitioners are firstly required to be considered by the Government itself on its own and in case if the petitioners' grievances are not redressed then there may be some justification in their approaching this Court. The respondent No.1 through the Chief Secretary to the Government of Gujarat is directed to constitute a committee of following four persons:

- (1) Chief Secretary himself as Chairman of the committee,
- (2) Secretary to the Finance Department, Government of Gujarat, as a Member,
- (3) Secretary to the concerned Department, as a Member, and
- (4) Director of the concerned Department, as a Member,

and to decide the claim of the petitioners as made in these special civil applications within a period of six months from the date of receipt of the writ of this order. These special civil applications shall be considered to be the memorandum of the petitioners. If the petitioners so desire they may also be given an opportunity of hearing. In case their grievances are accepted then all the consequential benefits follow therefrom be given to them within next two months. However, if the grievances of the petitioners are not accepted, then a reasoned order may be passed and a copy thereof be sent to the petitioners by Registered Post Acknowledgment Due. In that case, liberty is granted to the petitioners for revival of these special civil applications by filing a simple note. These special civil applications and the Rule in both these petitions stand disposed of in the terms aforesaid with no order as to costs.
